



DAC/JFW  
PATENT APPLICATION

IN THE U.S. PATENT AND TRADEMARK OFFICE

January 7, 2009

Applicants: Junzo SUNAMOTO et al

For: COSMETIC PRODUCT CONTAINING  
POLYSACCHARIDE-STEROL DERIVATIVE

Serial No.: 09/936 953 Group: 1617

Confirmation No.: 4435

Filed: September 17, 2001 Examiner: Chong

International Application No.: PCT/JP00/02044

International Filing Date: March 30, 2000

Atty. Docket No.: Yanagihara 62

Mail Stop PETITION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RECONSIDERATION OF HOLDING OF ABANDONMENT**

Sir:

The decision of the Board of Appeals was rendered on October 13, 2006 (a copy of the first page of the Decision is enclosed herewith). On November 1, 2006, a Notice of Abandonment was mailed out by the Patent Office. A copy of the Notice of Abandonment is enclosed herewith. However, as provided under 37 CFR 1.197, Applicants had two months to take a further action. On December 13, 2006, a Request for Continued Examination containing a request for suspending action under 37 CFR 1.103(c) for three months. In light of the above facts, Applicants respectfully submit that an

(Please see the following page.)

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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 7, 2009.

  
Terryence F. Chapman

abandonment in fact did not occur as Applicants filed a Request for Continued Examination within two months of the mailing date of the Decision of the Board of Appeals. Also enclosed herewith is an Examiner's Interview Summary Record dated September 12, 2008 in which the Examiner admits that the Notice of Abandonment was filed prior to the two month date from the Decision of the Board of Appeals and that Applicants' Request for Continued Examination was filed within two months of that Decision. As such, Applicants respectfully submit that a submission of the Request for Continued Examination in fact constituted a reconsideration of the holding of abandonment and that the present application in fact is not abandoned since Applicants undertook all actions required by it before the two month date.

Applicants respectfully request that this application be reinstated by the Patent Office and prosecution continued.

The Commissioner is hereby authorized to charge any additional fee which may be required by this paper, or to credit any overpayment, to Deposit Account No. 06-1382.

Respectfully submitted,

  
Terryence F. Chapman

TFC/smd

FLYNN, THIEL, BOUTELL & TANIS, P.C. 2026 Rambling Road Kalamazoo, MI 49008-1631 Phone: (269) 381-1156 Fax: (269) 381-5465	David G. Boutell Terryence F. Chapman Mark L. Maki Liane L. Churney John A. Waters Brian R. Tumm Donald J. Wallace Dale H. Thiel Sidney B. Williams, Jr. Heon Jekal	Reg. No. 25 072 Reg. No. 32 549 Reg. No. 36 589 Reg. No. 40 694 Reg. No. 24 802 Reg. No. 36 328 Reg. No. 43 977 Reg. No. 24 323 Reg. No. 24 949 Reg. No. L0379*
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\*limited recognition number

Encl: Copy of MPEP 711.03  
Copy of first page of Board's Decision  
dated October 13, 2006  
Copy of Notice of Abandonment  
dated November 1, 2006  
Copy of Express Mailing Certificate for  
Request for Continued Examination Application  
dated December 13, 2006  
Copy of Examiner's Interview Summary Record  
dated September 12, 2008  
Postal Card



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## **711.03 Reconsideration of Holding of Abandonment; Revival - 700 Examination of Applications**

### **711.03 Reconsideration of Holding of Abandonment; Revival**

When advised of the abandonment of his or her application, applicant may either ask for reconsideration of such holding, if he or she disagrees with it on the basis that there is no abandonment in fact; or petition for revival under 37 CFR 1.137.

**browse after**

**KEY:** =online business system =fees =forms =help =laws/regulations =definition (glossary)

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Last Modified: 11/18/2008 11:39:00

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The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

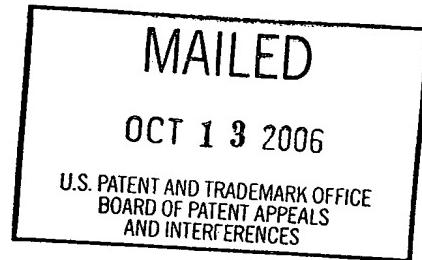
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

*Ex parte* JUNZO SUNAMOTO, KUNIO SHIMADA, AKIO HAYASHI  
RYUZO HOSOTANI, YOSHIHIRO YANO and KAZUNARI AKIYOSHI

Appeal No. 2006-2554  
Application No. 09/936,953

ON BRIEF



Before SCHEINER, MILLS and LINCK, *Administrative Patent Judges*.

LINCK, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the final rejection under 35 U.S.C. § 103(a) of claims 1, 4, 5 and 8-12, all of the pending claims in Application No. 09/936,953, filed Sept. 17, 2001 (hereafter the “953 application”).

Claim 1 is the only independent claim. It reads:

1. A cosmetic product comprising 99.999-50 wt. % of cosmetic components, a solvent containing at least one of a volatile oil and a volatile organic solvent and 0.001-50 wt. % of a pullulan-cholesterol derivative formed by substituting the hydroxyl groups of mono-saccharide units constituting the pullulan of the pullulan-cholesterol derivative, in



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,953	09/17/2001	Junzo Sunamoto	Yanagihara Case 62	4435
7590	11/01/2006		EXAMINER	
Flynn Thiel Boutell & Tanis 2026 Rambling Road Kalamazoo, MI 49008-1699		DHT _____ TVC _____ BRT _____	CHONG, YONG SOO	
		DGB _____ MLM _____ SRT _____	ART UNIT	PAPER NUMBER
		RJT _____ LLC _____ SBW _____	1617	
		NOV 04 2006	DATE MAILED: 11/01/2006	
		DJW _____ GMS _____ FILE _____	KLP _____ CMC _____	PMG _____ TLH _____

**COPY**

Please find below and/or attached an Office communication concerning this application or proceeding.



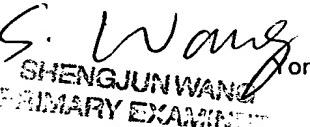
### Notice of Abandonment

Application No.	Applicant(s)
09/936,953	SUNAMOTO ET AL.
Examiner	Art Unit
Yong S. Chong	1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1.  Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.  
 (a)  A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.  
 (b)  A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
     (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).  
 (c)  A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).  
 (d)  No reply has been received.
  
2.  Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).  
 (a)  The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).  
 (b)  The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
     The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.  
 (c)  The issue fee and publication fee, if applicable, has not been received.
  
3.  Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).  
 (a)  Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.  
 (b)  No corrected drawings have been received.
  
4.  The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
  
5.  The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
  
6.  The decision by the Board of Patent Appeals and Interference rendered on 13 October 2006 and because the period for seeking court review of the decision has expired and there are no allowed claims.
  
7.  The reason(s) below:

  
 Shengjun Wang Yong S. Chong  
 PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



## PATENT APPLICATION

IN THE U.S. PATENT AND TRADEMARK OFFICE

"Express Mail" Mailing Label No.: EV 908 858 973 US

Date of Mailing: December 13, 2006

Applicants: Junzo SUNAMOTO et al

Title: COSMETIC PRODUCT CONTAINING  
POLYSACCHARIDE-STEROL DERIVATIVE

Serial No.: 09/936 953

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International Application No.: PCT/JP00/02044

International Filing Date : March 30, 2000

Atty. Docket No.: Yanagihara 62

Copy

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

MAILED TO PATENT OFFICE

DATE DEC 13 2006

## EXPRESS MAILING CERTIFICATE

Sir:

I hereby certify that the attached paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

FLYNN, THIEL, BOUTELL &amp; TANIS, P.C.

By: Carey AshDate: December 13, 2006

Documents attached: RCE Application  
Transmittal dated December 13, 2006  
including enclosures listed thereon

Telephone: (269) 381-1156

191.05/05



<b>Interview Summary</b>	<b>Application No.</b> 09/936,953	<b>Applicant(s)</b> SUNAMOTO ET AL.
	<b>Examiner</b> YONG S. CHONG	<b>Art Unit</b> 1617

All participants (applicant, applicant's representative, PTO personnel):

- (1) YONG S. CHONG. (3) \_\_\_\_\_.  
 (2) Mr. Terry Chapman. (4) \_\_\_\_\_.

**COPY**

Date of Interview: 12 September 2008.

Type: a) Telephonic b) Video Conference  
 c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.  
 If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: \_\_\_\_\_.

Identification of prior art discussed: \_\_\_\_\_.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/Yong S Chong/ Examiner, Art Unit 1617	
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U.S. Patent and Trademark Office  
PTOL-413 (Rev. 04-03)

Interview Summary

Paper No. 20080912

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Attorney called Examiner to determine what the status of the case was. Apparently, Attorney had filed a RCE within 2 months of the Board Decision to affirm the Examiner. However, an Abandonment was filed prior to that, which prevented the RCE from being entered into record. Unfortunately since the case is already abandoned it is up to Applicant to revive the case since the Examiner cannot do anything at this point. It was suggested that the Applicant file a petition to withdraw the abandonment since Applicant has responded to the Board Decision within 2 months as verified by the record.